

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

KEVIN FERNANDEZ,  
 Plaintiff,  
 vs.  
 DR. CENTRIC, et al.,  
 Defendants.

3:12-cv-00401-LRH-WGC

**ORDER**

re: Plaintiff's Motion for Order to Compel  
 Defendants to Produce a "Martinez" Report

Doc. # 286

Before the court is Plaintiff's (second) motion for an order compelling the Defendants to produce a "Martinez" report. (Doc. # 286.)<sup>1</sup> The Plaintiff previously filed a similar motion. (Doc. # 167.) The court denied Plaintiff's earlier motion without prejudice as the court opined the motion was premature. The court noted the parameters of Plaintiff's action had not been specifically identified because the Plaintiff's underlying motion was filed while his proposed amended complaint was being evaluated. The court anticipated that if Plaintiff were to file an amended complaint, it would also have to be screened and the subject of another report and recommendation. (Doc. # 220 at 2.)

As predicted, Plaintiff did file an amended complaint, his proposed second amended complaint. (Doc. # 229.) A Report and Recommendation on that proposed amended complaint was submitted to District Judge Larry R. Hicks. (Doc. # 265.) Plaintiff filed Objections to the Report and Recommendation. (Doc. # 267.)<sup>2</sup> Judge Hicks has not yet evaluated the Report and Recommendation.

Thus, for the same rationale recited by the court in denying Plaintiff's first "Martinez" motion,

<sup>1</sup> Refers to court's docket number.

<sup>2</sup> Plaintiff's objections erroneously referenced the Report and Recommendation as being Doc. "256." (Doc. # 267.) The correct docket number for the report and recommendation is Doc. # 265.

1 the court finds the present motion to be premature. Until Judge Hicks establishes the exact parameters  
2 of this case and identifies which of the 42+ defendants this action will be allowed to proceed against,  
3 the court's consideration of a motion seeking a "Martinez" report is premature.

4 As with this court's consideration of Plaintiff's initial "Martinez" motion, this order should not  
5 be read as suggesting the court will order such a report or that such a report would be appropriate for this  
6 case. See, Order. Doc. # 220. The court will consider all of the issues attendant to the propriety of a  
7 "Martinez" report if Plaintiff refiles his motion after Judge Hicks has addressed the Report and  
8 Recommendation regarding Plaintiff's proposed second amended complaint.

9 Plaintiff's motion (Doc. # 286) is **DENIED WITHOUT PREJUDICE.**

10 IT IS SO ORDERED.

11 DATED: May 28, 2014.

12   
13 \_\_\_\_\_  
14 WILLIAM G. COBB  
15 UNITED STATES MAGISTRATE JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28